

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DELAY GRAHAM,

Defendant.

Case No. 16-cr-00538-JSW-1

**ORDER RE MOTION TO SUPPRESS
HEARING AND BRIEFING SCHEDULE**

Defendant's motion to suppress is currently before the Court. Last month, the Court granted Defendant's motion to supplement the record, ordered supplemental briefing, and granted the parties' stipulation setting the motion to suppress for hearing on August 22, 2017. (Dkt. Nos. 26, 29.) Before the required supplemental briefing was completed, Defendant's prior counsel filed an application to have this case set before Magistrate Judge Westmore to permit counsel to withdraw due to a conflict and have new counsel appointed. This Court granted the application. (Dkt. No. 31.) In addition to setting the case before Judge Westmore, the order provided: "The Court vacates the July 21, 2017 filing deadline for Mr. Graham's surreply and orders the parties to meet and confer on a new deadline and to submit a proposed order to the Court." (*Id.*)

On July 21, 2017, Judge Westmore excused Defendant's prior counsel and appointed new counsel for Defendant. (Dkt. No. 32.) Judge Westmore reminded the parties that they were to "file proposed order re: surreply to Judge White." (*Id.*)

Over two weeks have passed and no stipulation regarding Defendant's surreply has been filed. Accordingly, the Court ORDERS as follows:

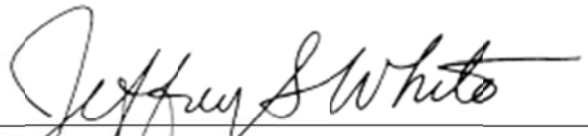
The August 22, 2017 hearing on Defendant's motion to suppress is VACATED.

By Friday, August 11, 2017, the parties shall submit a stipulation and proposed order

1 establishing a deadline for Defendant's surreply and setting a new hearing date for the motion to
2 suppress.¹ The selected hearing date shall be at least 2 weeks after the surreply deadline. The
3 parties shall consult the calendar and scheduling notes on the Court's website, and shall select an
4 open and available date on the Court's regularly-scheduled criminal calendar.

5 **IT IS SO ORDERED.**

6 Dated: August 8, 2017

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8 JEFFREY S. WHITE
United States District Judge
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¹ In this stipulation, Defendant's counsel shall expressly indicate whether Defendant intends to
28 proceed with the motion to suppress and whether Defendant and Defendant's counsel have elected
to adopt the prior briefing on that motion drafted by prior counsel.